

Anthony P. Cali (Pro Hac Vice Pending)
anthony.cali@stinson.com
STINSON LLP
1850 N. Central Avenue, Suite 2100
Phoenix, AZ 85004-4584
Telephone: 602.279.1600

Marshall J. Hogan, Bar No. 286147
mhogan@swlaw.com
SNELL & WILMER L.L.P.
600 Anton Blvd, Suite 1400
Costa Mesa, California 92626-7689
Telephone: 714.427.7000
Facsimile: 714.427.7799

Attorneys for Twain GL XXV, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – NORTHERN DIVISION

In re:

SA HOSPITAL ACQUISITION GROUP, LLC

Debtor.

Case No. 9:23-bk-10690-RC

Chapter 11

**DECLARATION OF MARSHALL J.
HOGAN RE SERVICE OF TWAIN GL
XXV, LLC'S MOTION TO DISMISS
CHAPTER 11 CASE**

Date: August 18, 2023
Time: 11:00 a.m.
Place: 411 West Fourth Street
Santa Ana, CA 92701
Courtroom 5D

I, Marshall J. Hogan hereby declare as follows:

1. I am Counsel at Snell & Wilmer L.L.P., counsel for Twain GL XXV, LLC
("Twain"). Except where indicated, the facts stated herein are based upon my own personal
knowledge and if called upon to do so, I could and would competently testify thereto.

2. On August 16, 2023, at approximately 10:27 a.m., I received a call from chambers
of the above-captioned court informing me that Twain's Application for Order Setting Hearing on

1 Shortened Notice (“Application”) [Dkt. No. 6] would be granted once an order was uploaded to
2 the court, that the hearing would be set for 11:00 a.m. on Friday, August 18, 2023, in person, and
3 that telephonic and other notice would need to be given to the Debtor, receiver, and other parties.

4 3. At approximately 10:52 a.m.¹ I called counsel for the above-captioned debtor and
5 debtor-in-possession (“Debtor”), Michael Jay Berger, and provided notice of Twain’s Motion to
6 Dismiss the Chapter 11 Case (Dkt. No. 5 and 5-1; “Motion”) and the in-person hearing on the
7 Motion set for Friday, August 18, 2023 at 11:00 a.m.

8 4. At approximately 11:00 a.m. the Court entered its Order Granting Application and
9 Setting Hearing on Shortened Notice (“Order”). Dkt. No. 9.

10 5. At approximately 11:14 a.m., I emailed Mr. Berger recapping my voicemail and
11 providing notice of the date and time of the in-person hearing. I also attached copies of the
12 Motion and Order.

13 6. At approximately 11:46 a.m. Brian Fittipaldi at the United States Trustee’s Office
14 called me to discuss bankruptcy case, the Motion, the Order, and the hearing. He had seen the
15 Order and knew of the hearing. He informed me he would be appearing at the hearing remotely.

16 7. In accordance with the Order, I prepared a Notice of Hearing for the hearing on the
17 Motion, to which a copy of the Order is attached as an exhibit. My firm filed it at approximately
18 1:35 p.m. It was assigned Docket No. 11 (“Notice of Hearing”).

19 8. At 3:48 p.m., I emailed copies of the following documents to Mr. Fittipaldi: (i) the
20 Motion, (ii) the Application; (iii) Notice of Errata re Application [Dkt. No. 7]; (iv) Order; and (v)
21 Notice of Hearing.

22 9. At 3:56 p.m., I sent a copy of the Notice of Hearing to Mr. Berger via email. He
23 responded at around 4:13 p.m., “I will see you there.”

24 10. In addition to telephonic notice, the Order directed Twain to provide written notice
25 of the hearing to the Debtor’s 20 largest unsecured creditors by email, fax, or personal delivery.

26 11. Co-counsel for Twain, Stinson LLP (“Stinson”), led the effort to contact the
27 Debtor’s 20 largest unsecured creditors by telephone, email, and fax and to provide telephonic
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¹ All times refer to August 16, 2023 unless otherwise specified.

1 and written notice of the Motion and hearing on the Motion. Anthony P. Cali of Stinson prepared
2 a separate declaration (“Cali Decl.”) regarding his service efforts, which was filed August 17,
3 2023 as Docket No. 17.

4 12. On August 16, 2023, after entry of the Order, out of an abundance of caution, I
5 called Nationwide Legal Services, a national provider of legal services, including service of
6 process, to understand the cost and time required for providing personal service to the 20 largest
7 unsecured creditors, just in case Mr. Cali was not able to provide written notice to them via email
8 or fax in accordance with the Order.

9 13. Nationwide told me that same-day personal service on all 20 of the largest
10 unsecured creditors by the 5 p.m. (Pacific time) deadline set forth in the Order would likely not be
11 possible. I learned that in order to personally serve creditors in states outside of California,
12 Nationwide would need to contract with several different affiliates, each of whom have different
13 capabilities and time requirements, and personal service likely could not be completed until the
14 next day at the earliest. Many of the creditors among the Debtor’s 20 largest unsecured creditors
15 were in the Central or Eastern time zones, including ones located in Chicago, IL, Atlanta, GA,
16 Greenwood, IN, Saint Luis, MO, and Roselyn, NY. Nationwide explained that since many of the
17 creditors were businesses, they would be closing for the day at around 2 p.m. or 3 p.m. Pacific
18 time, and personal service likely would not be possible that day after that time.

19 14. On August 18, 2023, out of an abundance of caution, I sent copies of the following
20 documents to two creditors, Missouri State Tax Authority and TVT 2.0 LLC, via overnight
21 delivery: (i) Motion, (ii) Application, (iii) Notice of Errata re Application, (iv) Order, and (iv)
22 Notice of Hearing. I sent these documents to these creditors because, at the time of mail pickup
23 from my office (4:00 p.m. Pacific time), I understood that Stinson had not yet been able to serve
24 written notice on the Missouri State Tax Authority and TVT 2.0 LLC. As it turns out, Stinson was
25 able to serve written notice on these creditors before the deadline at 5:00 p.m. (Pacific time), as
26 detailed in the Cali Decl. and so the overnight service was superfluous.

1 I declare under penalty of perjury of the United States of America that the foregoing is
2 true and correct.

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4 Dated: August 18, 2023

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6 By: /s/ Marshall J. Hogan
Marshall J. Hogan

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SNELL & WILMER
L.L.P.
LAW OFFICES
600 ANTON BLVD, SUITE 1400
COSTA MESA, CALIFORNIA 92626-7689

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
600 Anton Blvd., Suite 1400, Costa Mesa, CA 92626.

A true and correct copy of the foregoing document entitled (*specify*): **DECLARATION OF MARSHALL J. HOGAN RE SERVICE OF TWAIN GL XXV, LLC'S MOTION TO DISMISS CHAPTER 11 CASE** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) August 18, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Michael Jay Berger** michael.berger@bankruptcypower.com,
yathida.nipha@bankruptcypower.com;michael.berger@ecf.inforruptcy.com
- **Brian David Fittipaldi** brian.fittipaldi@usdoj.gov
- **United States Trustee (ND)** ustpregion16.nd.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) xxxx, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) xxxx I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

8/18/23 Kelley Nestuk
Date Printed Name

/s/Kelley Nestuk
Signature